



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**SUCCESSION CAUSE NO. 169 OF 2000**

**EUNICE WAKARIMA KIMOTHO ..... PETITIONER**  
**V E R S U S**  
**NANCY NYOKABI ..... OBJECTOR**

**D R A F T J U D G M E N T**

There is a petition and cross-petition filed by Nancy Nyokabi Kimotho and Eunice Wakarima Kimotho.

Both contend that they are widows of the Deceased Nelson Kimotho. Nancy acknowledge that Eunice is a widow but Eunice refuses to acknowledge Nancy as a co-wife.

Despite the directions were taken to hear the matter on affidavits, Mr. Muiruri made an oral application to cross-examine Nancy. To obtain clearer view of the facts I granted the application. Nancy to substantiate her claim, produced a notebook kept by her brother to show that the dowry was partly paid from April, 1982 and goat was slaughtered on 10th August, 1987. She produced a photograph of herself and the deceased taken as a couple. She also testified that they were cohabiting since 1976 at the place built behind the Bar and shop at Kerugoya belonging to the deceased. The efforts to portray Nancy as a mere employee of the deceased were self-destroyed on production of funeral announcement, Eulogy and funeral photographs. All these evidence show without any doubt that Nancy was acknowledged as a wife and widow of the deceased.

Mr. Murimi said that that acknowledgment came only towards the end and that is after the death. One can only ask whether the end came without any beginning. In my humble opinion, Nancy has sufficiently proved that she was and was accepted and acknowledged as wife by the family and clan of the deceased .

I need not go further into details of the averments and counteraverments at this stage.

Presently I only direct that Nancy and Eunice jointly be granted letters of administration. The issue of apportionment of the estate shall be dealt with at the time of confirmation of the grant. In the meantime I hope that sanity prevails between the parties.

Dated and delivered at Nairobi this 22nd day of March, 2002.

**K. H. RAWAL**

**J U D G E.**